

## § 202.4

the date of publication given in the application.

(Pub. L. 94-553; secs. 408, 409, 410, 702)

[43 FR 966, Jan. 5, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 202.3, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

### § 202.4 Effective date of registration.

The effective date of registration for claims received in the Copyright Office on or after January 3, 1991, and through December 31, 1991, with a short fee of \$10 is the date on which the application, deposit, and \$10 fee have all been received in the Copyright Office, provided, the claim is later determined to be acceptable for registration by the Register of Copyrights and a supplementary fee of \$10 is received in the Copyright Office. If the supplementary fee is not received promptly after notification of the short fee, the Copyright Office will initiate a proceeding to cancel the copyright registration. If the supplementary fee of \$10 is not received in the Copyright Office before the cancellation proceeding is completed, the cancellation will become final and will result in the loss of the effective date of registration. After cancellation, registration could be obtained only by submitting a new application, deposit, and filing fee.

[55 FR 50001, Dec. 4, 1990]

### § 202.5 Reconsideration Procedure for Refusals to Register.

(a) *General.* This section prescribes rules pertaining to procedures for administrative review of the Copyright Office's refusal to register a claim to copyright, a mask work, or a vessel hull design upon a finding by the Office that the application for registration does not satisfy the legal requirements of title 17 of the United States Code. If an applicant's initial claim is refused, the applicant is entitled to request that the initial refusal to register be reconsidered.

(b) *First reconsideration.* Upon receiving a written notification from the Registration Program explaining the reasons for a refusal to register, an applicant may request that the Registra-

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tion Program reconsider its initial decision to refuse registration, subject to the following requirements:

(1) An applicant must request in writing that the Registration Program reconsider its decision. A request for reconsideration must include the reasons the applicant believes registration was improperly refused, including any legal arguments in support of those reasons and any supplementary information. The Registration Program will base its decision on the applicant's written submissions.

(2) The fee set forth in § 201.3(d)(3)(i) of this chapter must accompany the first request for reconsideration.

(3) The first request for reconsideration and the applicable fee must be received by the Copyright Office no later than three months from the date that appears in the Registration Program written notice of its initial decision to refuse registration. When the ending date for the three-month time period falls on a weekend or a Federal holiday, the ending day of the three-month period shall be extended to the next Federal work day.

(4) If the Registration Program decides to register an applicant's work in response to the first request for reconsideration, it will notify the applicant in writing of the decision and the work will be registered. However, if the Registration Program again refuses to register the work, it will send the applicant a written notification stating the reasons for refusal within four months of the date on which the first request for reconsideration is received by the Registration Program. When the ending date for the four-month time period falls on a weekend or a Federal holiday, the ending day of the four-month period shall be extended to the next Federal work day. Failure by the Registration Program to send the written notification within the four-month period shall not result in registration of the applicant's work.

(c) *Second reconsideration.* Upon receiving written notification of the Registration Program's decision to refuse registration in response to the first request for reconsideration, an applicant may request that the Review Board reconsider the Registration Program's

refusal to register, subject to the following requirements:

(1) An applicant must request in writing that the Review Board reconsider the Registration Program's decision to refuse registration. The second request for reconsideration must include the reasons the applicant believes registration was improperly refused, including any legal arguments in support of those reasons and any supplementary information, and must address the reasons stated by the Registration Program for refusing registration upon first reconsideration. The Board will base its decision on the applicant's written submissions.

(2) The fee set forth in § 201.3(d)(3)(ii) of this chapter must accompany the second request for reconsideration.

(3) The second request for reconsideration and the applicable fee must be received in the Copyright Office no later than three months from the date that appears in the Registration Program's written notice of its decision to refuse registration after the first request for reconsideration. When the ending date for the three-month time period falls on a weekend or a Federal holiday, the ending day of the three-month period shall be extended to the next Federal work day.

(4) If the Review Board decides to register an applicant's work in response to a second request for reconsideration, it will notify the applicant in writing of the decision and the work will be registered. If the Review Board upholds the refusal to register the work, it will send the applicant a written notification stating the reasons for refusal.

(d) *Submission of reconsiderations.* (1) All mail, including any that is hand delivered, should be addressed as follows: RECONSIDERATION, Copyright RAC Division, P.O. Box 71380, Washington, DC 20024-1380. If hand delivered by a commercial, non-government courier or messenger, a request for reconsideration must be delivered between 8:30 a.m. and 4 p.m. to: Congressional Courier Acceptance Site, located at Second and D Streets, NE., Washington, DC. If hand delivered by a private party, a request for reconsideration must be delivered between 8:30 a.m. and 5 p.m. to: Room 401 of the James Madison Memo-

rial Building, located at 101 Independence Avenue, SE., Washington, DC.

(2) The first page of the written request must contain the Copyright Office control number and clearly indicate either "FIRST RECONSIDERATION" or "SECOND RECONSIDERATION," as appropriate, on the subject line.

(e) *Suspension or waiver of time requirements.* For any particular request for reconsideration, the provisions relating to the time requirements for submitting a request under this section may be suspended or waived, in whole or in part, by the Register of Copyrights upon a showing of good cause. Such suspension or waiver shall apply only to the request at issue and shall not be relevant with respect to any other request for reconsideration from that applicant or any other applicant.

(f) *Composition of the Review Board.* The Review Board shall consist of three members; the first two members are the Register of Copyrights and the General Counsel or their respective designees. The third member will be designated by the Register.

(g) *Final agency action.* A decision by the Review Board in response to a second request for reconsideration constitutes final agency action.

[69 FR 77636, Dec. 28, 2004, as amended at 70 FR 17177, Feb. 11, 2005; 73 FR 37839, July 2, 2008]

#### §§ 202.6-202.9 [Reserved]

#### § 202.10 Pictorial, graphic, and sculptural works.

(a) In order to be acceptable as a pictorial, graphic, or sculptural work, the work must embody some creative authorship in its delineation or form. The registrability of such a work is not affected by the intention of the author as to the use of the work or the number of copies reproduced. The availability of protection or grant of protection under the law for a utility or design patent will not affect the registrability of a claim in an original work of pictorial, graphic, or sculptural authorship.

(b) A claim to copyright cannot be registered in a print or label consisting solely of trademark subject matter and lacking copyrightable matter. While